

**ZONING BOARD OF APPEALS**

**Tuesday, December 18, 2007**  
**6:30 P.M. – City Council Chambers**  
**Rockford City Hall, 425 East State Street**

**Present:**

**ZBA Members:** Alice Howard, Vice Chairman  
David Peterson  
Tom Przytulski  
Dan Roszkowski

**Absent:** William Orr  
Fred Money  
Tom Morgan

**Staff:** Todd Cagnoni – Manager of Current Planning  
Sandra Hawthorne – Administrative Assistant  
Kerry Partridge – City Attorney  
Frank Schmitt – Chief, Fire Prevention Division  
Reid Montgomery – Director, Community Development

**Others:** Kathy Berg, Stenographer  
Applicants and Interested Parties

Alderman Nancy Johnson  
Alderman Carl Wasco (left at 7:10 PM)

The meeting started at 6:30 P.M. A **MOTION** was made by Dan Roszkowski to **APPROVE** the minutes of the November 20, 2007 meeting as submitted. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 4-0 with William Orr, Fred Money and Tom Morgan absent.

**086-07**            **5801 Columbia Parkway**  
Applicant        Tim Hansen  
Ward 14         **Special Use Permit for a Performance Use** of a drive through window for a fast food restaurant (Pizza Hut) in a C-3, Commercial General Zoning District  
**Laid Over from October and November meetings**

Prior to the meeting, a request was received from the Applicant to Lay Over this item to the January 15<sup>th</sup> meeting.

A **MOTION** was made by Tom Przytulski to **LAY OVER** the Special Use Permit for a Performance Use of a drive through window for a fast food restaurant (Pizza Hut) in a C-3, Commercial General Zoning District at 5801 Columbia Parkway. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 4-0.

**098-07**                    **228 South Main Street**  
Applicant                Bridget French  
Ward 3                    **Special Use Permit** for the sale of alcohol by the glass (beer and wine) in conjunction  
with a restaurant with only indoor seating in a C-4, Commercial Old Town Zoning District  
**Laid Over from November meeting**

Prior to the meeting, a request was received from the Applicant to Lay Over this item to the January 15<sup>th</sup> meeting.

A **MOTION** was made by Tom Przytulski to **LAY OVER** the Special Use Permit for the sale of alcohol by the glass (beer and wine) in conjunction with a restaurant with only indoor seating in a C-4, Commercial Old Town Zoning District at 228 South Main Street. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 4-0.

**104-07**                    **6982 Olde Creek Road**  
Applicant                Kathleen Marske  
Ward 1                    **Renewal of Special Use Permit #113-05** for a Planned Mixed-  
Use Development in an R-1, Single-Family Residential District  
**Variation** to reduce the required parking from 22 parking spaces to 19 parking spaces for  
a professional office in a R-1, Single-family Residential District

The subject property is located on the northwest corner of Perryville Road and Olde Creek Road. This Application was approved on February, 2006 and there has been no building or construction on the property, nor has the use been established. In order to maintain the Special Use and Variation, the Applicant is applying for renewal. Dan Marske and Kathleen Marske, Applicants, were present. Mr. Marske stated they had run into problems earlier in the project and sewer hook up was not completed until June 2007.

Staff Recommendation was for approval of both requests with 6 conditions. No Objectors were present.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Renewal of Special Use Permit #113-05 for a Planned Mixed-Use Development in an R-1, Single-Family Residential District and to **APPROVE** the Variation to reduce the required parking from 22 parking spaces to 19 parking spaces for a professional office in a R-1, Single-family Residential District at 6982 Olde Creek Road. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. The land and structure shall be used as a realtor's office or low impact use upon review and approval by the Zoning Officer.
2. Business identification on the building shall be permitted upon staff review and approval. A freestanding sign shall be permitted with a review and approval. A freestanding sign shall be permitted with a maximum height of eight feet and sixty four square feet in an area upon staff review and approval.
3. Cars shall park in the parking lot only and not on the surrounding streets.
4. The submittal of building elevations for staff review and approval. Building elevations shall be consistent with surrounding neighborhood with windows on all elevations.
5. that the existing trees along the western boundary remain and a "Type A" landscape buffer along the western and northern property lines be maintained.
6. That a site plan be submitted for staff review and approval in general conformance with Exhibit dated.

**ZBA 104-07**  
**Findings of Fact for Renewal of Special Use Permit #113-05**  
**For a Planned Mixed-Use Development**  
**In an R-1, Single-Family Residential District at**  
**6982 Olde Creek Road**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-1, Single-Family Residential Zoning District in which it is located.

**ZBA 104-07**  
**Findings of Fact for a Variation**  
**To reduce the Required Parking from 22 Parking Spaces to 19 Parking Spaces**  
**In a R-1, Single-Family Residential District at**  
**6982 Olde Creek Road**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.

7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**105-07**                    **4242 Harrison Avenue**  
Applicant                Frank Dobbs / Cricket Communications  
Ward 8                    **Special Use Permit** for a eighty three (83) foot high communication antenna support structure in a C-3, Commercial General District

The subject property is located one lot west of the northwest corner of Alpine Road and Harrison Avenue and has an existing multi-family apartment and a 70 foot high communication antenna support structure. Frank Dobbs, representing the Applicant, reviewed the request and distributed information on Cricket Communications, Inc. He explained that most of their sites in the greater Rockford area are co-locations. The radio frequency center works better at an 80 foot height. Because of this, Cricket Communications is requesting to add a ten foot high extension to the tower.

Staff recommendation was for Approval with 1 condition. No Objectors were present.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit for an eighty three (83) foot high communication antenna support structure in a C-3, Commercial General District for the property at 4242 Harrison Avenue. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. A new sidewalk shall be constructed along Harrison Avenue

**ZBA 105-07**  
**Findings of Fact for a Special Use Permit**  
**For a 83 Foot High Communication Antenna Support Structure**  
**In a C-3, Commercial General District at**  
**4242 Harrison Avenue**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3, Commercial General Zoning District in which it is located.

**106-07**            **5950 Spring Creek Road**  
Applicant        Erick Jenkins / WFI  
Ward 4            **Special Use Permit** for a one hundred fifty-one (151) foot high communication antenna support structure in a R-1, Single-family Residential District

Prior to the meeting, a written request was received by the Applicant asking that this item be Laid Over to the January meeting.

A **MOTION** was made by Tom Przytulski to **LAY OVER** the Special Use Permit for a one hundred fifty-one (151) foot high communication antenna support structure in a R-1, Single-family Residential District. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 4-0.

**107-07**            **Withdrawn by Applicant**

**108-07**            **110 South Alpine**  
Applicant        Atty. Tom Meyer for G.B. Illinois 2, LLC  
Ward 14            **Special Use Permit** for the sale of packaged liquor  
**Variation** from the required Type C Buffer to a standard perimeter landscape strip along Manheim Road in a C-3, Commercial General Zoning District

Prior to the meeting a written request was received by the Applicant asking that this item be Laid Over to the January meeting.

A **MOTION** was made by Tom Przytulski to **LAY OVER** the Special Use Permit for the sale of packaged liquor; and the Variation from the required Type C Buffer to a standard perimeter landscape strip along Manheim Road in a C-3, Commercial General Zoning District at 110 South Alpine Road. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 4-0.

**109-07**            **Withdrawn by Applicant**

**110-07**            **201 7<sup>th</sup> Street**  
Applicant        Lee and Charmaine Schreiner  
Ward 11            **Special Use Permit** to allow the installation of up to two (2) wind generators on the roof as permitted obstructions in a C-4, Commercial Oldtown Zoning District

The subject property is located approximately 400 feet from the intersection of North Gardiner Avenue and Crosby Street and is a retail and office building with second floor apartments. The existing building is sixty-two (62) feet by sixty (60) feet. Lee Schreiner and Leonard Salvig were present. Mr. Schreiner, owner of the building, reviewed the request. He explained that the Applicants are looking at alternative energy through the use of wind turbines. The locations of the turbines are approximately 15 and 20 feet away from the edge of the roof.

Staff Recommendation was for Approval with 2 conditions. No Objectors were present.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit to allow the installation of up to two (2) wind generators on the roof as permitted obstructions in a C-4, Commercial Oldtown Zoning District. The Motion was **SECONDED** by Dave Peterson and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Meet all applicable Building and Fire Codes.
2. Final Building Elevations for Staff's review and approval.

**ZBA 110-07**  
**Findings of Fact for a Special Use Permit**  
**To Allow the Installation of Up to Two (2) Wind Generators (Wind Turbines)**  
**On the Roof as Permitted Obstructions in a**  
**C-4, Commercial Oldtown Zoning District at**  
**201 7<sup>th</sup> Street**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-4 Zoning District in which it is located.

**111-07**                    **312, 318, 330, 340 Spring Creek Road –and- & 2313 Stoneridge Close**  
Applicant              Atty. Carl Ecklund for Anderson Gardens  
Ward 12                **Special Use Permit** to allow indoor sale of alcoholic beverages by the drink in  
                                 conjunction with a restaurant  
                                 **Special Use Permit** to allow outdoor sale of alcoholic beverages by the drink in  
                                 conjunction with a restaurant in an R-1, Single-family Residential District

Prior to the meeting, a request was received from the Applicant to Lay Over this item to the January meeting.

A **MOTION** was made by Tom Przytulski to **LAY OVER** the Special Use Permit to allow indoor sale of alcoholic beverages by the drink in conjunction with a restaurant; and to **LAY OVER** the Special Use Permit to allow outdoor sale of alcoholic beverages by the drink in conjunction with a restaurant in an R-1, Single-family Residential District. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 4-0.

**112-07**                    **2230 North Central Avenue**  
Applicant              Terry Kobernat for Old School Auto  
Ward 9                 **Special Use Permit** for the sale of passenger (used) vehicles that  
                                 does not satisfy the Performance Criteria of being 600 feet away from a residential district  
                                 in a C-3, Commercial General Zoning District

The subject property is located approximately 630 feet north of the Gilbert Avenue and North Central Avenue intersection and is currently an auto body and auto repair shop. James Kobernat, representing the Applicant, reviewed the request. He explained the Applicant previously owned a car dealership in Winnebago County and wishes to relocate to the North Central site. Mr. Kobernat stated the proposed dealership is a small operation selling used vehicles. He anticipates ten or twelve vehicles will be displayed outside.

Tom Przytulski asked if Staff would require the storage area behind the fence to be paved. Mr. Cagnoni stated it has been difficult for staff to evaluate the site since the site plan submitted was not detailed, and pointed out that conditions of approval include submittal of detailed site, landscaping and parking plans for Staff review. He clarified that if the Board feels there should be specific conditions relating to paving of any graveled area, they may add. It was decided by the Board to add condition 6, stating that Staff will determine if any areas of the graveled area require paving after they have had an opportunity to review an approved site plan.

Staff recommendation was for Approval with 5 conditions. No Objectors were present.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Special Use Permit for the sale of passenger (used) vehicles that does not satisfy the Performance Criteria of being 600 feet away from a residential district in a C-3, Commercial General Zoning District at 2230 North Central Avenue with added condition 6. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. The outdoor sale of passenger vehicles shall be limited to ten (10) vehicles at one time.
3. No overnight storage of vehicles in display area and all vehicles for sale that are not in the display area must be parked on cement or blacktop.
4. Submittal of detailed site, landscaping, and parking plans for Staff's review and approval.
5. All vehicles on premises shall be currently licensed and registered.
6. Staff to determine if any portions of the graveled area require paving after review and approval of a detailed site plan and parking plan.

**ZBA 112-07**  
**Findings of Fact for a Special Use Permit**  
**For the Sale of Passenger (Used) Vehicles That Does Not Satisfy the Performance Criteria**  
**Of Being 600 Feet Away From a Residential District**  
**In a C-3, Commercial General Zoning District at**  
**2230 North Central Avenue**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.

5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the Zoning District in which it is located.

**113-07**                    **3240 Andover Drive**  
 Applicant                David Hagney, Architect  
 Ward 4                    **Variation** to reduce the front yard setback from 30 feet to 24.7 feet  
                                  for a porch in a R-1, Single-family Residential District

The subject property is located on the west side of Andover Drive and is currently a single-family residence. This lot is an irregular shaped lot. . David Hagney, Architect representing the home owner, reviewed the request. The applicant wishes to construct an 8' by 27' enclosed porch to the front of the home as a weather protection for the front door, and to also include an area for sitting.

Staff Recommendation was for Approval with 2 conditions. No Objectors were present.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Variation to reduce the front yard setback from 30 feet to 24.7 feet for a porch in a R-1, Single-family Residential District at 3240 Andover Drive. The Motion was **SECONDED** by Dave Peterson and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Proposed porch addition must be in accordance with Exhibit D.
2. The porch addition must compliment the existing elevation features of the home.

**ZBA 113-07**  
**Finding of Fact for a Variation**  
**to Reduce the Front Yard Setback from 30 Feet to 24.7 Feet**  
**For a Porch in an R-1, Single Family Residential District at**  
**3240 Andover Drive**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification. Because of the layout of the home on site and angle of the lot, it would not appear out of the ordinary.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.

6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

**114-07**                    **4409 Mayflower Road and 3402 South Alpine Road**  
 Applicant                Nick DeBruler  
 Ward 14                   **Zoning Map Amendment** from R-1, Single-family Residential  
                                  District to C-3, Commercial General District for Tract I  
                                  **Modification of Special Use Permit #074-85 and #030-86** for a Performance Use  
                                  consisting of a fast food restaurant that cannot satisfy performance criteria of 600 feet  
                                  from a residential district in a C-3, Commercial General District for Tracts I and II

The subject property is located on the west side of South Alpine Road, approximately 452 feet north of Sandy Hollow Road and is currently a Beef-a-Roo fast food restaurant. Nick DeBruler, Applicant, and Dave Coady were present. Mr. DeBruler, partner in the Beef-a-Roo restaurant, stated they have purchased the property to the west that currently has a house on it. It is their intention to demolish the house to expand stacking spaces for the drive thru. No expansion of the building is included with this request. Sidewalks will be installed on the east side of South Alpine Road.

Staff Recommendation was for Approval with 4 conditions.

Norman Peterson, 4405 Mayflower Avenue, was present. Mr. Peterson asked how the division between the applicant's property and his would be landscaped. Mr. Peterson stated currently there are only short shrubs as landscaping and this does not deter light or sound. Mr. Cagnoni explained the type of landscaping that would be required.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Zoning Map Amendment from R-1, Single-family Residential District to C-3, Commercial General District for Tract I; and to **APPROVE** the Modification of Special Use Permit #074-85 and #030-86 for a Performance Use consisting of a fast food restaurant that cannot satisfy performance criteria of 600 feet from a residential district in a C-3, Commercial General District for Tracts I and II at 4409 Mayflower Road and 3402 South Alpine Road. The Motion was **SECONDED** by Dave Peterson and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Meeting all applicable building and fire codes.
2. Submittal of a landscape plan for staff review and approval.
3. Submittal of a revised site plan including three handicap spaces
4. Sidewalks are required along South Alpine Road and Mayflower Avenue.

**ZBA 114-07**  
**Findings of Fact for a Zoning Map Amendment**  
**From R-1, Single-Family Residential District**  
**To C-3, Commercial General District Located at**  
**4409 Mayflower Road & 3401 South Alpine Road**

**Approval** of this Zoning Map Amendment is based upon the following findings:

1. The proposed Zoning Map change is consistent with Article II, Intent and Purpose, of the Rockford Zoning Ordinance for the following reasons:

- a. This proposal promotes the health, safety, comfort, convenience, morals and general welfare for the citizens of Rockford because it is consistent with the comprehensive plan and surrounding uses;
  - b. This proposal protects the character, scale and stability of the adjacent residential and commercial because the proposed development will meet all development requirements of this site; and
  - c. The proposed map amendment would allow for a reasonable development to take place consistent with the surrounding neighborhood
2. The proposed Zoning Map Amendment is consistent with the approved general plan, the Year 2020 Plan, for the area. The 2020 Plan designates this property C-CO.

**ZBA 114-07**  
**Findings of Fact for a Modification of Special Use Permit**  
**#074-85 and #030-86 for a Performance Use**  
**Consisting of a Fast Food Restaurant that Cannot Satisfy**  
**Performance Criteria of 600 Feet from a Residential District**  
**In a C-3, Commercial General District at**  
**4409 Mayflower Road & 3401 South Alpine Road**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-3 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets as shown on Exhibit D.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-3 Zoning District in which it is located.

**115-07**                      **202 Williams Park**  
Applicant                      Rebecca Anderson  
Ward 2                              **Special Use Permit for a Planned Mixed-Use Development**  
   consisting of a parking lot in a R-2, Two-family Residential District

The subject property is located on the southeast corner of the Williams Park and 1<sup>st</sup> Avenue intersection and currently consists of a single-family residence and a two-family residence. David Coady, Architect, and Rebecca Anderson with SwedishAmerican reviewed the request. The Applicant, SwedishAmerican, has purchased this property and proposes to demolish both residences and construct a parking lot to serve their daycare.

Staff Recommendation was for Approval with 4 conditions. No Objectors were present.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Special Use Permit for a Planned Mixed-Use Development consisting of a parking lot in a R-2, Two-family Residential District at 202 Williams Park. The Motion was **SECONDED** by David Peterson and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Submittal of a civil site plan for staff review and approval.
2. Submittal of a landscaping plan for staff review and approval.
3. Submittal of a drainage plan for staff review and approval.
4. A parking lot permit is required prior to the construction of the parking lot.

**ZBA 115-07**  
**Findings of Fact for a Special Use Permit**  
**for a Planned Mixed-Use Development**  
**Consisting of a Parking Lot**  
**In an R-2, Two-Family Residential District at**  
**202 & 206 Williams Park**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the R-2, Two-Family Residential Zoning District in which it is located.

**116-07**                      **2605 Pamela Avenue**  
Applicant                Atty. Mario Tarara  
Ward 8                    **Modification of Special Use Permit #066-07** for a outside storage  
                                 that does not satisfy the Performance Criteria of being 600 feet away from a residential  
                                 district in a I-1, Light Industrial Zoning District

The subject property is located 220 feet east of the intersection of 22<sup>nd</sup> Street and Pamela Avenue. Attorney Mario Tarara reviewed the request. The current use of the property is an office and machine shop with mini storage units. The original Special Use Permit was approved earlier this year, without outside storage. The Applicant wishes to add the outside storage of automobiles, vans, trucks, recreational vehicles and trailers. The Applicant is agreeable to paving all areas that will store vehicles. Attorney Tarara stated the Applicant is also agreeable to Staff condition #4 which states the gravel encroachment to the east will be removed and improved with topsoil and grass.

Staff Recommendation was for approval with 6 conditions. No Objectors were present.

A **MOTION** was made by Tom Przytulski to **APPROVE** the Modification of Special Use Permit #066-07 for a outside storage that does not satisfy the Performance Criteria of being 600 feet away from a residential district in a I-1, Light Industrial Zoning District at 2605 Pamela Avenue. The Motion was **SECONDED** by Dan Roszkowski and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. All of the Conditions of Approval must be meet before Staff will sign off on Building Permit.
2. Submittal of detailed site plan to include parking lot, and outdoor storage area including site-obscuring fence for Staff's review and approval.
3. Submittal of detailed landscape plan to include the type of species to be planted for Staff's review and approval.
4. Removal of gravel encroachment on the property to the east. The removed gravel must be replaced with topsoil and seeded with grass.
5. The outside storage will be limited to autos, motorcycles, vans and trucks with passenger car or "B" plates, motor homes, campers, travel trailers, boats, snowmobiles, wave runners, jet skis, all-terrain vehicles and golf carts when upon trailers that were made for the purpose of hauling said vehicles.
6. All vehicles shall be currently licensed, registered, and operable.

**ZBA 116-07**  
**Findings of Fact for a Modification of Special Use Permit #066-07**  
**For Outside Storage that Does Not Satisfy the Performance Criteria**  
**of Being 600 Feet Away from a Residential District**  
**In An I-1, Light Industrial Zoning District at**  
**2605 Pamela Avenue**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the I-1 Zoning District in which it is located.

**117-07**                    **1209 South Alpine Road and 4301 Tonawanda Avenue**  
Applicant                Nate Blaser for Anderson Mitsubishi  
Ward 10                    **Special Use Permit** for off-site storage on a gravel lot  
                                 **Special Use Permit** to allow barb wire on top of a fence  
                                 **Variation** to allow plastic slats through chain-link fencing as an enclosure for a dumpster  
                                 in a C-1, Limited Office and C-3, Commercial General District

The subject property is located on the corner of South Alpine Road, Center Terrace and Tonawanda Avenue and is currently an auto dealership. Nate Blaser, Applicant and General Manager for Anderson Mitsubishi, reviewed his request. Mr. Blaser stated over the course of two years their business has been growing. On the south side of the building, visibility is difficult during winter when the snow is plowed. To alleviate this problem, the Applicant has put some vehicles behind the building on a separate lot. Mr. Blaser explained that in the past, there was an instance of a vehicle set on fire and damage to other vehicles. Mr. Blaser obtained a fence permit for a chain link fence; however, the permit did not indicate that barb wire would be installed on top of the fence. Since barb wire is not allowed in this district, Mr. Blaser received a Notice of Violation and also received one for lack of a dumpster enclosure.

Staff Recommendation was for Approval of all three requests with 4 conditions. No Objectors were present.

Mr. Przytulski stated this is a highly traveled street and does not feel barb wire is appropriate for this area.

A **MOTION** was made by Dan Roszkowski to **APPROVE** the Special Use Permit for off-site storage on a gravel lot; **APPROVE** the Special Use Permit to allow barb wire on top of a fence; and to **APPROVE** the Variation to allow plastic slats through chain-link fencing as an enclosure for a dumpster in a C-1, Limited Office and C-3, Commercial General District at 1209 South Alpine Road and 4301 Tonawanda Avenue. The Motion was **SECONDED** by Dave Peterson and **FAILED TO CARRY** by a vote of 3-1 with Tom Przytulski voting Nay.

Mr. Cagnoni explained that because there were only four Zoning Board members present, this item would Fail to Carry and would go forward with a Denial. He explained if the Board wished to reconsider addressing the barb wire issue they could reconsider the vote on this application again. Mr. Blaser stated he would be willing to remove the barb wire.

A **MOTION** was made by Dan Roszkowski to **RECONSIDER** the vote on this item. The Motion was **SECONDED** by Dave Peterson and **CARRIED** by a vote of 4-0.

A second **MOTION** was made by Dan Roszkowski to **APPROVE** the Special Use Permit for off-site storage on a gravel lot; **DENY** the Special Use Permit to allow barb wire on top of a fence; and to **APPROVE** the Variation to allow plastic slats through chain-link fencing as an enclosure for a dumpster in a C-1, Limited Office and C-3, Commercial General District at 1209 South Alpine Road and 4301 Tonawanda Avenue. The Motion was **SECONDED** by Tom Przytulski and **CARRIED** by a vote of 4-0.

Approval is subject to the following conditions:

1. Outside storage shall be in accordance to Exhibit E.
2. This request shall expire in two years from the approval date by City Council.
3. When the approval expires, the gravel lot shall be replaced with topsoil and seed.
4. Dumpsters located on site shall be enclosed with the appropriate enclosure material.

**ZBA 117-07**  
**Findings of Fact for a Special Use Permit**  
**For Off-Site Storage on a Gravel Lot**  
**In a C-1, Limited Office and C-3, Commercial General District at**  
**1209 South Alpine Road and 4301 Tonawanda Avenue**

**Approval** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use shall, in all other respects, conform to the applicable regulations of the C-1 and C-3 Zoning District and conditions of approval.

**ZBA 117-07**  
**Findings of Fact for a Special Use Permit**  
**To Allow Barbwire on Top of a Fence**  
**In a C-1, Limited Office and C-3, Commercial General District at**  
**1209 South Alpine Road and 4301 Tonawanda Avenue**

**Denial** of this Special Use Permit is based upon the following findings:

1. The establishment, maintenance or operation of the Special Use Permit will be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the community.
2. The Special Use Permit will be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.
3. The establishment of the special use will impede the normal or orderly development and improvement of the surrounding property for uses permitted in the C-1 and C-3 District.
4. Adequate utilities, access roads, drainage and/or necessary facilities have been provided.
5. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
6. The special use does not conform to the applicable regulations of the C-1 and C-3 Zoning District and conditions of approval.

**ZBA 117-07**  
**Findings of Fact for a Variation**  
**To Allow Plastic Slats Through Chain-Link Fencing**  
**As an Enclosure for a Dumpster**  
**In a C-1, Limited Office and C-3, Commercial General District at**  
**1209 South Alpine Road and 4301 Tonawanda Avenue**

**Approval** of this Variation is based upon the following findings:

1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
2. The conditions upon which a petition for a Variation is based are unique to the property for which the Variation is sought and are not applicable, generally, to other property within the same zoning classification.
3. The purpose of the Variation is not based exclusively upon a desire to increase the value or income potential of the property.
4. The alleged difficulty or hardship is caused by this Ordinance and has not been created by any persons presently having an interest in the property or by any predecessor in title.
5. The granting of the Variation will not be detrimental to the public welfare, or injurious to other property or improvements in the neighborhood in which the property is located.
6. The proposed Variation will not impair an adequate supply of light and air to adjacent property, nor substantially increase the congestion of the public streets, nor increase the danger of fire, or endanger the public safety, nor substantially diminish or impair the property values within the neighborhood.
7. The proposed Variation does comply with the spirit and intent of restrictions imposed by this Ordinance.

With no further business to come before the Board, the meeting was adjourned at 7:20 PM

Respectfully submitted  
Sandra A. Hawthorne, Administrative Assistant  
Community Development Department  
Planning and Zoning Division